The Third Report of the Select Committee on Election Laws

June, 1970

ONTARIO

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APPOINTMENT AND TERMS OF REFERENCE

July 23rd, 1968.

On motion by Mr. Robarts, seconded by Mr. MacNaughton,

Ordered, That a Select Committee of this House be appointed to continue the review of the terms and provisions of the election laws and any related Acts and regulations, in the light of modern needs, practices and concepts, for the proper representation of those qualified to vote, and to report its findings and recommendations to this Assembly.

And that the Select Committee have authority to sit during the interval between Sessions and have full power and authority to employ counsel and such other personnel as may be deemed advisable and to call for persons, papers and things and to examine witnesses under oath, and the Assembly doth command and compel attendance before the said Select Committee of such persons and the production of such papers and things as the Committee may deem necessary for any of its proceedings and deliberations, for which purpose the Honourable the Speaker may issue his warrant or warrants.

And the said Committee to consist of thirteen members to be composed as follows:—

Edward Dunlop, Chairman ..... York-Forest Hill
Syl Apps ..... Kingston and the Islands
J. Albert Belanger ..... Prescott and Russell
Leo Bernier ..... Kenora
Alex Carruthers ..... Durham
William Ferrier ..... Cochrane South
William Hodgson ..... York North
Bernard Newman ..... Windsor-Walkerville
Clarke T. Rollins ..... Hastings
Vernon M. Singer ..... Downsview
Gordon E. Smith ..... Simcoe East
Richard S. Smith ..... Nipissing
Fred Young ..... Yorkview

THIRD REPORT MAY, 1970

To The Members of The Legislative Assembly of Ontario:

1. The Select Committee on Election Laws presented its first report on February 24, 1969. The principal recommendations of that report were incorporated in Bill 217 of that session, now S.O. 1968-69, c. 33. The Committee's second report was presented on October 29, 1969, and its recommendations have not yet received legislative attention.

2. The Committee presents its third report herewith and makes recommendations in two classes.

Recommendations

3. Recommendations for which draft legislation has been prepared—

(1) That *The Controverted Elections Act*, R.S.O. 1960, c. 65, and *The Personation Act*, R.S.O. 1960, c. 292, be repealed, and that *The Election Act, 1968-69* be amended by the addition of new Parts IX and X, setting forth election offences, and procedures to be followed in controverted elections. [See Schedule 1 p. (22)],

(2) That *The Election Act, 1968-69* be amended by the inclusion of a new Part XI setting forth procedures for the redistribution of the province into electoral districts at intervals and establishing a continuing Redistribution Commission. [See Schedule 2 p. (35) and para. 54],

(3) That *The Election Act, 1968-69* be amended to extend the right to vote by proxy to otherwise qualified students at post-secondary institutions, and so that any qualified elector in the electoral district may act as proxy for not more than one person eligible to vote by proxy other than a relative of a specified degree. Upon achieving the right to vote by proxy, qualified students at post-secondary institutions would no longer enjoy the privilege of choosing between two places of residence for election purposes. [See Schedule 3 p. (39), and paras. 29 and 30].

4. Recommendations for which draft legislation has not been prepared—

(1) That persons otherwise qualified to vote and aged eighteen on polling day should be qualified to vote at elections, provided that this recommendation is implemented concurrently with the enactments required to reduce the age of legal majority to eighteen, (paras. 15 to 17),

(2) That, following the next general election, and upon receipt of notification by the proposed Redistribution Commissioners respecting the population in each electoral district, consideration be given to the revision of the number of Members to be elected to the Assembly, (paras. 19 to 22),

(3) That *The Election Act, 1968-69* be amended to extend the privilege of vouching electors in subdivisions declared to be rural subdivisions by the Chief Election Officer, (para. 23),

(4) That *The Election Act, 1968-69* be amended to provide that deputy returning officers be entitled to appoint their poll clerks, (para. 24),

(5) That *The Liquor Licence Act*, R.S.O. 1960, c. 218, be amended so that liquor plebiscites will be conducted entirely through the municipal electoral machinery, and that any such amendment should state the qualifications of those entitled to vote. The Committee favours the idea that those entitled to vote on liquor questions be those entitled to vote for election of Members to the Assembly,

(6) That the staff and resources of the Chief Election Officer be expanded so as to provide for desirable demographic and cartographic services,

(7) That the Chief Election Officer be entitled to draw funds by warrant, sufficient to conduct an advertising campaign prior to each Ontario general election, designed to inform electors of their rights and responsibilities.

5. Despite extensive consideration of the subject, the Committee is not yet prepared to advance new proposals with respect to election finances, (paras. 31 to 33). Similarly, the Committee is not yet prepared to advance proposals further to harmonize the electoral provisions of *The Municipal Act* and related Acts with those of *The Election Act, 1968-69*. These will be the principal subjects to be considered in the preparation of its fourth and final report.

COMMENTARY

The System

6. At the outset of their task, most Members of the Committee believed that some new, different and better system for conducting elections could be found. Having had extensive electoral experience, the Members were deeply aware of the hectic activity which follows upon the issue of a writ of election. Under the existing system of enumeration after dissolution, and in order to keep the duration of an election period within acceptable limits, scores of thousands of enumerators, revising officers and other electoral officials must be recruited, trained and set to work in a matter of days. Members of the Committee were at first attracted by alternative methods for compiling the electoral roll, such as the permanent list system in the United Kingdom, voter registration in most jurisdictions in United States and the Province of British Columbia, and the continuous electoral roll in Australia and New Zealand.

7. The Committee studied these alternatives very carefully and is now unanimous that for electoral purposes in Ontario the existing system of preparing the roll by enumeration after dissolution, supplemented by opportunities for revision, is the system presently best suited to the needs of the province and its electors. No major change in the system is recommended. Observations respecting alternative systems for preparing rolls and conducting elections will be found later in this commentary. It is noted here, however, that contrary to the impressions of many, the present Ontario system is far less costly than any of the other systems studied by the Committee.

8. The computer centres being established by the Assessment Branch of the Department of Municipal Affairs are designed primarily to attract information about real property, and to create property files. It is possible, however, that when these centres are in a position to discharge their primary responsibilities a variety of arrangements could be made to enable them to attract information about people, and to create people files. Some sources of such information are notices of change of address furnished the Post Offices, data on marriages and deaths furnished by the Registrar General of Vital Statistics, and information about connection and disconnection of services furnished by public utilities. Further, *The Municipal Act* may be amended to provide for regular autumn enumerations, for the purpose of identifying electors as well as assessment. Assuming a sufficient degree of uniformity of franchise and polling subdivision boundaries, such information might enable the computers to print out a preliminary electoral roll of sufficient accuracy to eliminate the need for enumeration in Ontario elections. Copies of such lists would have to be mailed to each household and an adequate number of revising centres would have to be provided. Should this prove possible, the rolls could be prepared for use, not only in municipal and provincial elections, but also furnished for federal purposes. These possibilities are worthy of future consideration.

Party Affiliation on Ballot Papers

9. The Committee considered proposals that party affiliation be indicated on the ballot. Examination of the factors involved soon made it apparent that this is not a simple matter. As political parties are not legal entities, there would be nothing to prevent several candidates proposing themselves as representing a certain party. The returning officer could hardly be expected to rule which among several candidates is to be presented as the candidate of any party. Before such a proposal could be successfully carried out, it would be necessary that some sort of party registration or formal recognition be established, as in the provinces of Quebec and Nova Scotia.

10. Administratively it is not impossible to contemplate the development of systems of party registration or recognition, which would enable party affiliations of candidates to be shown on ballot papers. It is more important, however, to consider the fundamental positions of candidates and parties in a parliamentary system. Candidates are elected to represent the interests of all their constituents. As Members of the Assembly they should be free to associate themselves with any party, or with no party, however they think it best in the interests of the province and their constituents. Although the established political parties have developed useful emanations outside the Assembly, the party is a parliamentary phenomenon. Party registration or other form of statutory recognition might well create rigidity in the parliamentary process, particularly at those times of political stress when the system most demands flexibility. In the event of a forced dissolution, it is not infrequently difficult to predict just who will survive as party leaders when the new Assembly meets. Members should be free to change or modify their party affiliations according to their conscience. The majority of the Committee was not convinced that it is difficult for electors to ascertain the parties to which candidates ordinarily attach themselves. The majority does not recommend that the party affiliation of candidates should be shown on ballot papers. This will be a matter for active consideration when the Committee gives further study to the question of election finances as full control of election finances would require some system for official recognition of parties.

The Franchise

11. The principal ingredients of the franchise are citizenship, residence and age.

12. *Citizenship* — The constitution places citizenship under the jurisdiction of the Parliament of Canada. Until the enactment of the *Canadian Citizenship Act, 1946*, Canadian citizenship did not exist as such. British subjects resident in Canada, and of the age of 21 years, were eligible to vote. The status of British subjects was acquired either by birth, marriage or naturalization. The *Canadian Citizenship Act, 1946* declared that all persons born in Canada were Canadian citizens, and that persons living in Canada who had become British subjects by naturalization or marriage before 1926 were deemed to be Canadian

citizens. All other persons, whether British subjects by birth, naturalization, marriage or not, if they wish it, have to apply for Canadian citizenship after a period of five years of residence. During the period 1926 to 1946 approximately 355,000 British subjects, and approximately 666,000 persons who were not British subjects, emigrated to Canada. Almost half of these settled in Ontario. During this twenty year period, many of the latter became British subjects by naturalization, and in this way acquired the right to vote. So that these people, who had enjoyed the franchise for many years, would not be disenfranchised, the franchise in nearly all Canadian jurisdictions was changed from: "British subjects of the age of 21 years, resident in ....." to: "British subjects and Canadian citizens, of the age of 21 years, resident in .....".

13. It was represented to the Committee that this particular aspect of the franchise was discriminatory, in that British subjects by virtue of birth, marriage or naturalization who had been resident in Ontario only one year could vote, whereas other persons had to wait the five years, until they could acquire Canadian citizenship. The Committee recognized the validity of this contention. At the same time, it saw the danger that scores of thousands of persons who had enjoyed the franchise for many years, as British subjects by birth, marriage or naturalization, would be denied the franchise by the simple exercise of striking out the qualifying words: "British subject". Accordingly, no recommendation to alter this aspect of the franchise is offered at this time, as the Committee feels that some further clarification of the qualifications and status of Canadian citizenship should be dealt with by the Parliament of Canada, by way of amendments to the *Canadian Citizenship Act*. It is hoped that the Parliament of Canada will give favourable consideration to shortening the number of years of residence required before a person can become a citizen, say, from five years to three.

14. *Residence* — The franchise requires residence in Ontario for at least one year, and residence in the electoral district as of the day of polling. "Residence" is difficult to define and interpret. A change is proposed amending *The Election Act, 1968-69* to eliminate the dual residence provision for post-secondary students and to substitute a provision permitting them to vote by proxy.

15. *Age* — The Committee recommends that the franchise be extended to persons who are otherwise qualified to vote, and become of the age of 18 years as of polling day. The majority of the Committee believes it is of companion importance that other Acts should be amended at the same time, so as to establish the age of legal majority at eighteen years. It is noted that this has been recommended recently by the Law Reform Commission. All Members of the Committee were in favour of lowering the voting age, but there were differences about the age to be chosen. Because the Law Reform Commission has suggested eighteen as the age of legal majority, and because the Government of Canada has proposed the age of eighteen, the majority of the Committee decided to recommend this particular age.

16. Many of the fears often expressed about the lowering of the voting age seem to relate to the anarchistic attitudes of many of the leaders of militant youth. There is no evidence that these attitudes are the attitudes of the majority of that age group, or that there is any particular likelihood that these same persons will become the leaders of their generation ten and twenty years hence.

17. Studies in the United Kingdom and in the United States suggest that the majority of young people take their politics, like their religion, from their parents. It is a well-known statistic that nearly fifty per cent of the population is aged 25 years or less. It is a not so well-known statistic that the median age of the population of Ontario over 21 is 42 years and 11 months, and the median age of the population over 18 is 41 years, only slightly lower. A number of studies suggest that the median age of those who actually cast votes is about 48 years. If the 18 to 21 year olds follow the voting patterns of the 21 to 29 year olds, it is likely that the median age of those who cast their vote will not be significantly reduced. As current birth rates are dropping, and as the post-war babies reach their thirties and forties, the median age of voters will likely start to rise during the 1970's, even if the voting age is reduced to 18.

18. *The Franchise Generally* — The Committee recognizes the desirability of achieving the greatest possible uniformity of franchise at all levels of government.

Representation and Redistribution

19. There are now 117 electoral districts in Ontario, each of which chooses one Member for the Assembly. The volume of parliamentary business has increased dramatically in recent years. The length of the sessions has increased from 54 days to 173 days in less than ten years. The volume of legislation to be considered and enacted, and of supply to be approved, has increased by similar or greater ratios. Members report that their correspondence has trebled and quadrupled. There is a need for at least some of the Standing Committees to meet concurrently with the Assembly.

20. The Committee observes that, on the average, each Member of the Assembly of Ontario represents 63,692 people, whereas Members of the Assemblies of other provinces represent lesser numbers as follows: Alberta, (64 Members) 24,390 population; British Columbia, (55 Members) 37,581 population; Manitoba, (57 Members) 17,175 population; New Brunswick, (58 Members) 10,775 population; Newfoundland, (42 Members) 12,238 population; Nova Scotia, (45 Members) 16,955 population; Prince Edward Island, (32 Members) 3,437 population; Quebec, (108 Members) 55,407 population; Saskatchewan, (59 Members) 16,254 population. Numbers are not the sole consideration, but they are significant.

21. The procedures established in the proposed new Part XI of *The Election Act, 1968-69* will provide the Assembly with useful infor-

mation about the population of electoral districts. This information should be considered as soon as possible after the next provincial general election, at which time it will have been possible to assess the effects of the new Rules of Procedure upon the business of the Assembly. At that time, specific consideration should be given to a determination of the most desirable number of Members which the Assembly should have.

22. It is desirable that electoral districts for the House of Commons and the Assembly should be coextensive, to the greatest degree possible. This will be facilitated if any increase in the number of Members in the Assembly is related to a number which bears a numerical ratio to the number of seats in the Commons.

Vouching

23. Although *The Election Act, 1968-69* provides for extension of the two enumerator system to rural areas, the majority of the Committee is not now persuaded that this will ensure the compilation of an entirely satisfactory roll in rural areas, having regard for the long distances frequently encountered. As a safeguard, and until the two enumerator system proves itself, or otherwise, in rural areas the majority of the Committee recommends that the system of vouching should be re-introduced. This system was set forth in section 84 of *The Election Act*, R.S.O. 1960, c. 118.

Appointment of Poll Clerks

24. *The Election Act, 1968-69* provides for the appointment of deputy returning officers and poll clerks by the returning officer "so that they represent differing political interests", — Section 56 (2) and (3). The majority of the Committee is now convinced that, in the unusual circumstances of election day, it is essential that the deputy returning officer and his poll clerk should be persons who are mutually compatible. On one day, and on only one day, every few years, these two people must work harmoniously together to ensure the efficient conduct of the poll in their polling subdivision. Accordingly, the majority of the Committee now recommends the Act should be further amended, so that the deputy returning officers shall appoint their own poll clerks. The interests of candidates at polling places are safeguarded by their right to appoint scrutineers.

Voting Machines

25. The Committee viewed several kinds of voting machines, both in Toronto and on visits to various jurisdictions in the United States. These machines serve useful purposes in assisting the voter to cast his vote when the form of the ballot is very complex, and many offices are to be voted for, as is usually the case in the United States. In such cases they are also helpful in making possible a relatively rapid tally of the results. This is not so in Ontario elections where the voter has to choose between two or three candidates for a single office, and where the paper ballot seems clearly the system of choice.

Preferential Voting

26. Preferential voting is almost universal in Australia and New Zealand. In this system, almost a total stranger to electoral law in Canada, voters must rate all the candidates according to their preference, first, second, third and so on as the case may be. If no candidate enjoys a clear majority when the first preferences are counted, the ballots cast for the candidate with the fewest first preferences are counted again, according to their second preference. This process is repeated until one candidate enjoys a majority of the first, second and the subsequent preferences. In the view of the Committee, preferential voting in Australia worked to the advantage of the governing Liberal-Country party coalition, and to the detriment of the opposition Labour party. The Committee was surprised to find that some Members of the Labour party remained proponents of preferential voting, on theoretical grounds. In the absence of preferential voting, it is clear that a candidate can be elected although he is not the first choice of the majority of voters. Under the preferential system, however, it is at least theoretically possible to elect a candidate who is not the first choice of any of the voters. The theoretical advantages of preferential voting were not clear to the Committee, and it does not recommend any change from the present system under which a candidate is elected when he receives more votes than any other candidate.

Absentee Voting

27. For those electors not able to be present in their subdivision on polling day, *The Election Act, 1968-69* makes provision for them to vote in advance polls and, in some instances, by proxy. This report recommends further extension of the right to vote by proxy. These provisions do not, however, ensure that everyone who will be absent from his subdivision on voting day will enjoy the right to exercise his franchise.

28. The Committee considered all the known forms of absentee voting, particularly as found in the United Kingdom, United States, Australia and British Columbia. It found that these systems necessarily depended upon the existence of some kind of permanent list or register of voters. The Committee finds that the expense and other disadvantages of these systems does not warrant their introduction in Ontario solely to meet the needs of the relatively small number of voters unable to vote on polling day, or at advance polls, or by proxy. Some years ago, the province of Saskatchewan developed a system of absentee voting which did not require any form of permanent list or voter registration. This system was administratively cumbersome, requiring that street or poll keys for every electoral district of the province had to be furnished at every polling place at every electoral district in the province. This provision has since been abandoned in Saskatchewan. Further, the Committee was persuaded any such system would be difficult to enforce, and open to electoral abuse.

Proxy Voting

29. *The Election Act, 1968-69* extends the right to vote by proxy to disabled people, persons engaged in the transportation industry generally and members of the armed forces. The persons who might vote as their proxies were limited to those of a specified marital or blood relationship. It was represented to the Committee that many elderly and infirm persons were deprived of such relations, simply because of the passage of time. Accordingly, and so as to limit the possibilities of electoral abuse, it is recommended that one person living in the electoral district may vote as a proxy for not more than one person in the same district entitled to vote by proxy, except in the case of the prescribed relationship.

30. There has been a substantial increase in the number of students at post-secondary institutions. Many of these live temporarily far from their ordinary places of residence, usually the parental home. So that such students would not be disenfranchised, *The Election Act, 1968-69* contemplates that they can enjoy two places of residence, at both of which they can be enumerated. No other class of electors enjoys this privilege. Now, so that post-secondary students will not be disenfranchised, the Committee proposes that the Act should be so amended as to provide them with the right to vote by proxy at their ordinary place of residence.

Electoral Finances

31. In its studies, the Committee encountered many jurisdictions which appear to have iron-clad rules with respect to election finances. The Committee was surprised to find, however, that where such rules exist, they are honoured more in the breach than the observance. There are stringent rules in Australia, requiring successful candidates to file detailed returns before they are eligible to take their seats in the House of Representatives. Because they regard the rules as ridiculous, a substantial proportion of Members from all parties regularly refuse to file the required returns, and take their seats with impunity. In Britain, stringent rules apply to the expenses of candidates. They appear to be well enforced. Nevertheless, no rules apply to political parties in Britain, and the one seems to negate the other. The State of Oregon appears to have one of the most complex, detailed and incontrovertible sets of rules which can be imagined. The Committee was informed that by mutual consent, candidates and parties treat them with total disregard. This catalogue can be greatly extended. It simply suggests that the control of election finance is not a simple matter, and that the majority of the Committee is not at this time prepared to advance the simple solutions, which would likely have only a superficial effect.

32. The majority of the Committee is not persuaded that significant evils flow from current practices in Ontario in this matter. They were somewhat attracted by the provisions in Quebec and Nova Scotia, but would like to see these schemes in operation for longer periods before recommending their introduction in Ontario. Both the Quebec and Nova

Scotia schemes involve a degree of public subsidy of the election expenses of recognized candidates. This whole question will be a subject of further study by this Committee. For this reason, the matter will not be explored here at greater length.

33. A majority of the Committee was impressed by some excerpts from the report of the Barbeau Committee*, relating to the operation of the public electoral fund in Puerto Rico, and which suggests the need to be certain that a different system of electoral finances is a better system before it is embarked upon:

> ". . . the Popular Democratic Party during the election campaign of 1956, proposed the enactment of a system of direct subsidies by the state to political parties.
>
> The result of the election of 1956 encouraged the Popular Democratic Party to proceed with its proposals. The Statehood Republican Party supported the Popular Democratic Party after the latter had agreed to amendments prohibiting the collection of funds from public employees for political purposes in their place of work or outside government premises."
>
> "The Puerto Rican system is provided for and governed by a law passed on June 30, 1957. Since then there have been major amendments to the law in 1958, 1960 and 1964".
>
> "The information gathered . . . leads to the following conclusions. The party leaders all display increasing concern over the consequences which application of the legislation has had on their parties and their members. They note a general decline of interest on the part of the members and a drop in private contributions. The Popular Democratic Party officials attribute the following effects to the existence of the electoral fund.
>
> 1. Increased election costs for the party, which are due not only to the normal rise in expenses but also because people now refuse to work without pay for the party.
>
> 2. Loss of members' enthusiasm for their party. Whereas people formerly worked voluntarily for the party during elections, now they want to be paid and are thus interested in the party to the degree that they gain from it. This has also tended to lead to a bureaucratization of the party structure.
>
> 3. A loss of control over party expenses has been noted since the election fund was created; members have been careless about expenses because they feel that the party is assured of having funds."

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*Report of the (Federal) Committee on Election Expenses 1966. Published by Roger Duhamel, F.R.S.C., Queen's Printer and Controller of Stationery, Ottawa, Canada. Pages 215 to 223.

Alternative Methods of Preparing the List and Conducting Elections

34. *General* — The process by which electors cast and record their votes is fundamental to the success of a democracy. There are, for example, striking differences between elections in a congressional system and elections conducted under a parliamentary system. In the former, elections are held on fixed dates, whether or not the executive maintains the confidence of the majority in the Legislature. In the latter, elections are held a certain number of days after the executive deems that it has lost the confidence of the majority in the Legislature, or feels that it would be in its best interest and (presumably) in the best interest of its electorate to have the election at a certain time, or is constrained to do so by the operations of a constitutional or statutory provision. Stripped of the trappings of constitutional law and political science, the electoral difference between the congressional and parliamentary systems is that, under the former, the electoral process can be sedate, if not ponderous, whereas under the latter, it must be capable of being brought into action at short notice.

35. Under the congressional system, as exemplified in the United States of America, the same day and poll provides for the election of the President and Vice President at large, throughout the nation; Governors, Lieutenant Governors and United States Senators at large, throughout the States; State Senators at large, throughout regions within each State; Congressmen and State Assemblymen for Congressional and State Assembly districts; and a host of other candidates for local government offices. In the parliamentary system, as exemplified by Canada, it provides only for the election of candidates seeking to represent individual electoral districts. In consequence, an election in the United States is thought of as a national election, with local overtones. In Canada, elections are thought of as local contests, with substantial national overtones. Administratively, it will be seen that systems can be established when the date of the election is known months and years in advance, which are quite different from those which must be employed when the date of the election may be known as little as 37 days in advance.

36. The kind of electoral process which should result for each democracy becomes a reflection of the kind of democracy which it is hoped to achieve. Further, it might well be said that the kinds of electoral processes developed within each framework have been elaborated so as to become compatible with the other political, demographic, moral and economic circumstances they encounter. What is to be done in a country which is densely populated is different from what must be done in a country which is lightly populated. What is to be done in a jurisdiction with a stable population, in which every man knows his neighbour, may well be different from what should be done in a jurisdiction with a highly mobile population, in which few men know their neighbours. What is to be done where the electorate is highly literate is likely to be quite different from what should be done where this is not the case.

37. Certain electoral principles are immutable. One which springs to mind is the principle of one man, one vote. Differences may arise as to what is one man. Is he of twenty-one years, or only of eighteen? Does he acquire a second vote in a second electoral district, because he owns property there? Another principle is that every qualified elector should be given every reasonable opportunity to cast his vote. A third principle is that every reasonable effort must be made to keep elections free from fraudulent or corrupt practices.

38. The electoral process in Ontario should be judged in relation to the circumstances in Ontario. The Committee has learned much from its study of electoral procedures in other jurisdictions. It cannot be said, however, that one system is better than another system. If a particular system is better, it is because it is better for that jurisdiction. It does not follow that it would be better for Ontario than the system which has been developed in Ontario to meet its particular needs.

39. *The Simplest Case* — The simplest, most nearly ideal, electoral systems were to be found in the Greek City States, New England Town Hall Meetings, and the system which actually prevails in at least one of the States of the American Northwest. Where almost everyone knows who everyone else is, there is no need to create rolls of eligible voters, no need to provide for revision, and no need to establish systems to prevent personation or other frauds. These simple cases rarely exist in Ontario elections, or elections in most other modern democratic jurisdictions. Resort must be had to more complicated systems. The Committee was regularly reminded that, outside police states, there are no agencies of government which can identify a person and his entitlement to the franchise. The Department of Transport can say who has a driver's licence. The Registrar General of Vital Statistics can reproduce the record of certain important events, such as the time and place of a certain person's birth, marriage or death but he cannot say that the holder of a certificate is the person so registered. Many people have more than one social insurance number, and many people have no social insurance number. A social insurance number is not proof of the identity of the holder, his place of residence or his citizenship. The only way a person can be identified as a voter or otherwise is by his own testimony supported, if necessary, by the testimony of others. This applies equally to enumeration, registration or actions before the courts.

40. *The United Kingdom* — In the United Kingdom, as elsewhere, most people do not have two residences, either in fact or in law. This is one of the reasons that residence is a widespread ingredient of the franchise in all democratic countries. It also helps adherence to the principle "one man — one vote".

41. The preparation of the electoral register in Britain commences at this point. On a certain date in October, Electoral Registration Officers are required to ensure that a form is mailed to the occupier of each household. The occupier is required to complete this form,

showing the names of all eligible electors within his household, and return it to the Electoral Registration Officer. This is the basis for the preparation of the register, the so called "permanent list".

42. In practice, the number of occupiers who return the form on time, or with sufficient accuracy, has been found to be unsatisfactory. The law imposes on Electoral Registration Officers the duty of "making a sufficient inquiry". Thus, in almost all areas, the Electoral Registration Officers despatch a corps of paid canvassers or enumerators to make calls on every household, to try to ensure that the form has been completed, and completed accurately. This is done annually.

43. The Electoral Registration Officer and his staff prepare and post electoral registers in public places during the period of November 28 to December 16. Only during this period may electors seek the revision of the list by giving notice of objections or omissions. Thereafter the register is finally compiled for each polling subdivision. The register then comes into force on February 16 and remains in force until February 15 of the following year for both parliamentary and local government elections.

44. The permanency of this so called "permanent list" is not because of its enduring accuracy, but because it is conclusive. If an elector's name does not appear on the permanent list, there is no way in which he can have the list revised during its twelve months' lifetime, or otherwise render himself eligible to exercise his franchise. The Committee was informed that, as of its date of coming into force (February 16) the permanent list was considered to be 96% accurate. This percentage decreases as time passes and the voters change their places of residence. Towards the end of its currency, the list is likely to be very inaccurate, even though the people of Britain seem to be less mobile than the people of Ontario. In Britain, the Committee learned that removals average about 15% per annum. The removal rate in Ontario appears to be twice this figure.

45. Although the elector whose name is omitted from the list can never vote until he gets his name entered on a new list, electors who move are not denied their vote. If they move from one electoral district to another within the same electoral registration area — usually a group of six or more districts within the same local government area — they can cast their vote simply by returning to their original electoral district and polling subdivision on polling day. If they have moved farther afield than this, they can apply for a postal vote. Either way the trouble is these procedures entitle them to vote in the electoral district which they have left, and not in the electoral district to which they have moved, and in which they are presumably more interested.

46. While this system may be admirable for the purposes of the United Kingdom, particularly because it is relatively densely populated, and the population is accustomed to it, the Committee considered it would lead to many objections on the part of the Ontario electors.

Further, it was shown to be a good deal more costly than the existing Ontario system. Under the United Kingdom system elections can be conducted in as few as 21 days.

47. *Australia* — Compulsory voting is the most distinctive feature of the electoral system of Australia. If a qualified voter does not vote at an election, he is guilty of an offence. After the election, the returning officers seek explanations from non-voters. If the explanation is not satisfactory, the returning officer may impose a modest fine which the elector may appeal to the courts.

48. Compulsory voting was introduced more than half a century ago, when there was widespread concern at polls in which only 30% or less of qualified voters actually voted. The idea of compulsory voting seems well accepted by the electorate and more than 95% of qualified voters cast their ballots. It was the Committee's impression that this has become a point of pride among Australian voters. The modest fines ($4.00 Aus.) which may be imposed by the returning officers or the courts can hardly be the reason for such large turn-outs. The Committee observed a local government election in Sydney, at which voting was not compulsory, at which only about 30% of the qualified voters voted. It struck the Committee that the Australian voter feels that, if the authorities want him to vote then they should tell him that he must.

49. It follows that, if voting is to be compulsory, then at all times the voter's name must appear on the electoral roll. If a voter had been missed in an enumeration, he would have a reasonable excuse for not voting. Accordingly, the law places the onus on the voter, who must see that his name is placed on the roll within seven days of becoming eligible to vote by reason of attaining the voting age or otherwise. When a voter moves from one address to another, he is responsible to so inform the Registration Officer, and within seven days. Even though failure to register or to report the change of address is an offence punishable by a modest fine, experience indicates that a high proportion of voters neglect to register or report changes of address. So that the roll can be kept reasonably up to date, official canvassers call about once a year at every household to check the accuracy of the roll and where voters have failed to register or report changes, corrections are made. If a voter's explanation of his delinquency does not satisfy the returning officer a modest fine is imposed, which the voter may appeal to the courts.

50. Compulsory voting also requires a complete system of absentee voting. This would not be possible without the existence of the continuous electoral roll.

51. The continuous electoral roll is made available to the states for use in state and local government elections.

52. The Committee felt that the compulsory features of the Australian system would be repugnant to a majority of Ontario electors. Further, it observed that the system was several times as costly as the

system in Ontario. Under the Australian system elections can be conducted in as few as 28 days, although longer election periods are usual.

53. If at some future time, a Canadian constitutional amendment could locate the responsibility for election administration at one level of government or other, the expense of a continuous electoral roll might be justified, because of the relative frequency of elections for which it would be used. The continuous electoral roll, stripped of its compulsory features, would be more appropriate to a parliamentary system than the voter registration system in the United States which depends upon a fixed date of election. This thought is not inconsistent with the suggestion advanced in paragraph 8.

54. The Committee was attracted by the redistribution procedures in effect in Australia and New Zealand. Its recommendations in this connection are found in Schedule 2, and represent a combination of features found in the relevant Australian, New Zealand and Canadian law.

55. *United States of America* — Fixed dates of election, frequency of elections, and the large number of offices to be voted for, are the principal characteristics of the electoral process in the United States. In most jurisdictions there are at least two elections a year — the election itself in the autumn, and the primary election in the spring.

56. Systems of voter registration are necessary if the nuisance of semi-annual enumerations is to be avoided. The onus is placed on the elector to ensure that his name is on the register. He must present himself at a voter registration office whenever there is a change in his electoral status. It is believed that a large proportion of voters would never register if it were not for the operation of voter registration drives. Sometimes these are conducted by the election authorities, assisted by community groups, such as service clubs, the League of Women Electors, Chambers of Commerce and labour unions. The most effective voter registration drives appear to be those conducted by the political parties themselves, who wish to ensure that as many as possible of their probable supporters are registered.

57. The official electoral machinery is well geared for the purging of the register, for the removal of dead persons and persons who failed to vote at preceeding elections. It is less well adapted to the task of making it easy for voters to register.

58. Registration usually closes about two months before the date fixed for the election. Knowing when the elections are to be held, political parties, and others can organize their voter registration drives accordingly. Voter registration as found in the United States would probably not be workable under a parliamentary system, as election dates are uncertain, and voter registration drives could seldom be conducted before the register is closed.

Conclusion

59. The electoral systems in Australia, New Zealand and the United States of America and, to some extent, in the United Kingdom, place much more onus on the elector than is the case in Ontario and other Canadian jurisdictions. In most instances, the Ontario elector will find that his name is entered on the roll without any more effort than to answer the door when the enumerators call. It is relatively easy for him to check to ensure that his name is on the roll, by consulting the publicly posted lists, or by telephoning the office of the returning officer or one of the candidates. If his name has been missed, or if he has an objection to the inclusion of another person on the roll, widespread opportunities for revision are provided. The number of voters who vote at each polling place is as few in Ontario as any other jurisdiction studied, and fewer than most. This means that, except in very remote areas, polling places are very conveniently located with respect to voters' residences. Despite these not inconsiderable advantages, the cost per voter is as low as in any of the systems studied and significantly lower than in most.

60. The first two reports presented by this Committee have made a number of recommendations for the improvement of the electoral law and procedures in Ontario, and a number of these have now been enacted. This third report suggests that further improvements can be offered. Some important matters remain to be dealt with such as further harmonizing Ontario electoral and municipal electoral arrangements, and in the matter of election finances. The Committee hopes to be able to offer its recommendations on these points early in the 1971 session.

Meetings, Public Hearings and Study Visits

61. Since its establishment by Order of the Assembly July 23, 1968, the Committee has held an organizational meeting, thirteen other meetings and two public hearings.

62. The Committee made an extensive study of the election laws and administration of Canada and all its provinces, the United Kingdom, several of the United States of America, Australia and New Zealand, and certain aspects of election law and administration in France and in the Federal Republic of West Germany. Its studies involved visits to ten other jurisdictions by the Committee or its subcommittees. In Canada, these were Quebec and British Columbia. In the United States, these were Erie County, New York; Detroit, Michigan; Allegheny County, Pennsylvania; Mitnomah County, Oregon and Los Angeles County, California. Outside North America, subcommittees visited London and Winchester, England; Canberra and Sydney in Australia, and Wellington, New Zealand. The Committee enjoyed an opportunity to meet jointly in Toronto with the Standing Committee on Privileges and Elections of the House of Commons of the Parliament of Canada.

63. Expert testimony was heard from Mr. J.-M. Hamel, Chief Electoral Officer of Canada, and Mr. Nelson Castonguay, Representation Commissioner for Canada, and Mr. Richard M. Scammon, Director, Elections Research Center, Washington, D.C.

64. The Committee is most grateful to all those who arranged and participated in these meetings and study visits, and for the many courtesies extended to it.

STAFF

65. The Committee has been well served by and is most grateful to its Staff who are Roderick Lewis, Q.C., Chief Consultant; F. A. Braybrook, Consultant; D. Donald Diplock, Q.C., Counsel; Mrs. Mary Brand, Clerk, and Miss Cleo McElroy, Secretary.

EDWARD DUNLOP,
Chairman,
Select Committee on Election Laws.

Schedule I

PART IX

OFFENCES, PENALTIES AND ENFORCEMENT

148. Every person who,

(*a*) not being qualified to vote, votes; or

(*b*) being qualified to vote, votes more than once at an election; or

(*c*) at an election applies for a ballot paper in the name of some other person whether that name be that of a person living or dead, or of a fictitious person, or who votes in an electoral district or polling subdivision other than the one in which he is entitled to vote by this Act,

is guilty of an offence and of a corrupt practice, and on summary conviction is liable to a fine of not more than $1,000, or to be imprisoned for a term of not more than six months, or to both such fine and imprisonment. R.S.O. 1960, c. 188, s. 163, *amended.*

149. Every person who,

(*a*) having appointed a voting proxy to vote at an election, attempts to vote at the election otherwise than by means of such voting proxy while the voting proxy is in force; or

(*b*) having been appointed a voting proxy at an election, votes or attempts to vote at the election under the authority of the proxy when he knows or has reasonable grounds for supposing that his appointment has been cancelled or that the voter who made the appointment is dead or is no longer entitled to vote,

is guilty of an offence and of a corrupt practice and on summary conviction is liable to a fine of not more than $1,000, or to be imprisoned for a term of not more than six months, or to both such fine and imprisonment. R.S.O. 1960, c. 118, s. 181, *amended.*

150.—(1) Every deputy returning officer or poll clerk who wilfully miscounts the ballots or otherwise wilfully makes up a false statement of the poll is guilty of an offence and of a corrupt practice and on summary conviction is liable to a fine of not more than $1,000, or to be imprisoned for a term of not more than six months, or to both such fine and imprisonment. R.S.O. 1960, c. 118, s. 181, *amended.*

(2) Every returning officer, deputy returning officer or poll clerk who refuses or neglects to perform any of the duties imposed upon him by this Act, is guilty of an offence and, on summary conviction is liable to a fine of not more than $1,000. R.S.O. 1960, c. 118, s. 180 (2), *amended.*

151. Every returning officer, deputy returning officer or other person whose duty it is to deliver poll books or who has the custody of a certified list of voters or of a polling list or poll book, who wilfully makes any improper alteration or insertion in or omission from or in any way wilfully falsifies such list of voters, polling list or poll book is guilty of an offence and of a corrupt practice and on summary conviction is liable to a fine of not more than $1,000, or to be imprisoned for a term of not more than six months, or to both such fine and imprisonment. R.S.O. 1960, c. 118, s. 117, *amended.*

152. Every person who,

(*a*) alters, defaces or destroys a ballot or the initials of the deputy returning officer thereon;

(*b*) without authority, supplies a ballot to any person;

(*c*) places in a ballot box a paper other than the ballot that he is authorized by law to place therein;

(*d*) delivers to the deputy returning officer to be placed in the ballot box any other paper than the ballot given to him by the deputy returning officer;

(*e*) takes a ballot out of the polling place;

(*f*) without authority, destroys, takes, opens or otherwise interferes with a ballot box or books or packet of ballots or a ballot in use or used for the purpose of an election;

(*g*) being a deputy returning officer, knowingly puts his initials on the back of any paper purporting to be or capable of being used as a ballot at an election;

(*h*) not being a person authorized by the Chief Election Officer, prints any ballot or what purports to be or is capable of being used as a ballot at an election;

(*i*) being authorized by the Chief Election Officer to print the ballots for an election, prints more ballots than he is authorized to print; or

(*j*) attempts to commit any offence mentioned in this section,

is guilty of an offence and of a corrupt practice and on summary conviction is liable to a fine of not more than $1,000, or to be imprisoned for a term of not more than six months, or to both such fine and imprisonment. R.S.O. 1960, c. 118, s. 178, *amended*.

153. Every person, unless authorized by this Act, who wilfully destroys, injures or obliterates, or causes to be destroyed, injured or obliterated, a writ of election, return to a writ of election, poll book, list of voters, polling list, certificate or affidavit, or other document or paper made, prepared or drawn according to or for the purpose of meeting the requirements of this Act, or any of them, is guilty of an offence and of a corrupt practice and on summary conviction is liable to a fine of not more than $1,000, or to be imprisoned for a term of not more than six months, or to both such fine and imprisonment.

154. Any person, who knowingly furnishes false or misleading information to any person who by this Act is authorized to obtain information is guilty of an offence and of corrupt practice and on summary conviction is liable to a fine of not more than $1,000, or to be imprisoned for a term of not more than six months, or to both such fine and imprisonment. *New*.

155.—(1) Every official agent or candidate who makes default in delivering the statements required by Part VIII to the returning officer is guilty of an offence and on summary conviction is liable to a fine of not more than $1,000.

(2) Every official agent or candidate who wilfully furnishes an untrue statement to the returning officer is guilty of an offence and of a corrupt practice and on summary conviction is liable to a fine of not more than $1,000, or to be imprisoned for a term of not more than six months, or to both such fine and imprisonment. R.S.O. 1960, c. 118, s. 191 (3, 4), *amended*.

156.—(1) Every person who,

(*a*) commits or aids, abets, counsels, commissions or condones the commission by others of the activities described as corrupt practices in this Part;

(*b*) (i) directly or indirectly, himself or by any other person on his behalf, gives, lends or agrees to give or lend, or offers or promises any money or valuable consideration or promises to procure or to endeavour to procure any money or valuable consideration to or for a voter, or to or for any person in order to induce a voter to vote or refrain from voting, or corruptly does any such act on account of a voter having voted or refrained from voting at an election;

(ii) directly or indirectly, himself or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers or promises any office, place or employment, or promises to procure or to endeavour to procure any office, place or employment to or for a voter, or to or for any other person in order to induce a voter to vote or refrain from voting, or corruptly does any such act on account of a voter having voted or refrained from voting at an election;

(iii) directly or indirectly, himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement, to or for a person in order to induce such person to procure or endeavour to procure the return of a person to serve in the Assembly, or the vote of a voter at an election;

(iv) upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, or promises or endeavours to procure the return of a person to serve in the Assembly, or the vote of a voter at an election;

(v) advances or pays, or causes to be paid, money to or to the use of any other person, with the intent that such money or any part thereof shall be expended in corrupt practices at an election, or knowingly pays or causes to be paid money to a person in discharge or

repayment of money wholly or in part expended in corrupt practices at an election;

(vi) directly or indirectly, himself or by any other person on his behalf, on account of and as payment for voting or for his having voted, or for illegally agreeing or having agreed to vote for a candidate at an election, or on account of and as payment for his having illegally assisted or agreed to assist a candidate at an election, applies to such candidate or to his agent for the gift or loan of any money or valuable consideration, or for the promise of the gift or loan of any money or valuable consideration, or for any office, place or employment, or the promise of any office, place or employment;

(vii) before or during an election, directly or indirectly, himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place, or employment for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at an election;

(viii) after an election, directly or indirectly himself or by any other person on his behalf, receives any money or valuable consideration for having voted or refrained from voting, or for having induced any other person to vote or refrain from voting at an election;

(ix) in order to induce a person to allow himself to be nominated as a candidate, or to refrain from becoming a candidate, or to withdraw if he has become a candidate, gives or procures any office, place or employment, or agrees to give or procure or offers or promises to procure, or endeavours to procure any office, place or employment for such person, or for any other person; or

(x) in order to induce a person to withdraw from being a candidate at an election, directly or indirectly, gives or lends, or offers or promises or agrees to give or lend, any money or valuable consideration to such person, or any other person, or

(*c*) induces or procures any person to vote knowing that that person has no right to vote; or

(*d*) before or during an election knowingly publishes a false statement of the withdrawal of a candidate,

is guilty of an offence and of a corrupt practice, and on summary conviction is liable to a fine of not more than $1,000, or to be imprisoned for a term of not more than six months, or to both such fine and imprisonment.

157. Every person who contravenes any of the provisions of this Act for which contravention no penalty is otherwise provided is guilty of an offence and liable on summary conviction to a fine of not more than $1,000.

158.—(1) Where a candidate at an election, or his official agent is convicted of committing a corrupt practice, the candidate is ineligible to stand as a candidate at any election up to and including the next general election, or to hold any office at the nomination of the Crown or Lieutenant Governor for five (5) years following the date of the official return, and if he has been elected, his election is void.

(2) If when the candidate or his official agent is convicted of committing a corrupt practice the presiding judge finds that the act constituting in law a corrupt practice was committed without any corrupt intent, the candidate is not subject to the penalties and disabilities provided by subsection (1).

GENERAL

159. A transcript of all the proceedings in a Provincial Court taken during the hearing of a charge alleging the commission of an offence at a provincial election, and whether or not the person charged is convicted or acquitted, shall be forwarded to the Chief Election Officer.

160. Where the Chief Election Officer after receiving the transcript referred to in Section 159 decides to commence an action against anyone, he shall report his decision to the Legislature, and where he has not commenced an action he shall report to the Legislature his reasons for not doing so.

161. Where the Chief Election Officer has received a complaint from any person in which it is alleged that corrupt practices have extensively prevailed at an election and decides to commence an action against anyone, he shall report his decision to the Legislature, and where he has not commenced an action he shall report to the Legislature his reasons for not doing so.

162. The Chief Election Officer shall in addition to any other requirements of this Act with respect to the tabling of the results of an election, report to the Legislature whether or not in his opinion the conduct of the election was free or otherwise of any of the actions which are declared to be offences or corrupt practices under this Act.

PART X

CORRUPT PRACTICES AND CONTROVERTED ELECTIONS

163.—(1) Every proceeding under this Part alleging that

(*a*) a corrupt practice has been committed by a candidate or his agent; or

(*b*) that the election is invalid by reason of a contravention by any one of the provisions of Part IX; or

(*c*) that errors or omissions of election officials affected the result of the election,

shall be by action commenced by issuing a writ of summons in the Supreme Court of Ontario.

(2) A candidate at an election or any voter qualified to vote at an election or the Chief Election Officer, if he deems that it is in the public interest that an action be commenced, may commence an action.

(3) No action shall be commenced after the expiration of ninety days following the date of the official election returns provided, however, that this subsection shall not apply to the Chief Election Officer who may commence an action under this Section at any time.

(4) Upon receipt of a writ of summons a Local Registrar of the Supreme Court shall send notice thereof by registered mail to the Registrar of the Supreme Court.

(5) The Registrar shall send a notice by registered mail to the Chief Election Officer of every writ of summons issued under this Part by anyone other than the Chief Election Officer.

(6) The Chief Election Officer shall notify the Assembly, through the Clerk, of any action commenced under the authority of this Section, and shall also notify the returning officer of the electoral district to which the writ of summons relates.

(7) The returning officer referred to in subsection 6 shall forthwith, after receipt of the notification, publish a notice thereof in the prescribed form once in a newspaper published in the electoral district or if there is no newspaper published in the electoral district, then in a newspaper having general circulation in the electoral district.

164.—(1) Where not otherwise provided in this Act and subject to the rules of Court the practice and procedure of of the Supreme Court apply to an action commenced under the authority of Section 163 with respect to:

(*a*) service of a writ and all other documents;

(*b*) payment into and out of court;

(*c*) examination for discovery;

(*d*) production and inspection of documents;

(*e*) costs and the taxation and recovery thereof;

(*f*) all other matters of practice or procedure.

(2) Nothing in this section extends or confers the right to extend the time for the commencement of an action.

(3) The action shall be tried by a Judge without a jury.

165. In any action under this Part against a member who was elected, the defendant may within fifteen days after service of the writ of summons upon him counterclaim, complaining of a corrupt practice by a candidate or agent at the same election where that candidate was not returned, whether the seat is or is not claimed by that candidate or on his behalf and the trial of the counterclaim shall take place at the same time as the trial of the action against the plaintiff by counterclaim, or at such other time as is appointed.

166.—(1) The Chief Election Officer, following receipt of the notice provided for in Section 163 (5), may apply to a Judge of the Supreme Court of Ontario, or to the Judge presiding at the trial for leave to intervene in the action for the purpose of bringing any evidence before the Court or for any other valid reason.

(2) Where the Chief Election Officer applies prior to the trial he shall file notice of application in the office in which the action was commenced and shall serve copies thereof on all parties.

(3) If the Judge grants leave to intervene he shall give directions as to appearance and procedure in respect to the Chief Election Officer including leave to subpoena witnesses to attend at the trial and thereafter the Chief Election Officer shall be served with all proceedings in the action.

167.—(1) At the time of the commencement of an action security shall be given on behalf of the plaintiff, other than the Chief Election Officer, to be applied towards payment:

(*a*) of all costs, charges and expenses, if any, that may become payable by the plaintiff to

(i) every person summoned as a witness on his behalf,

(ii) the member or candidate or agent against whom the action is brought; and

(*b*) to the returning officer of the costs and charges incurred in the publication of notices in the electoral district in respect of the writ of the action or proceedings therein.

(2) The security shall be a deposit of $1,000 in one of the banks in which public money of Ontario is then being deposited, and the deposit shall be made to the credit of the action with the privity of the Accountant of the Supreme Court.

168. A disclaimer by an elected member under *The Legislative Assembly Act* does not affect the right of any person entitled to commence an action under this Part and an action may be commenced in the same manner as if the member elected had not disclaimed.

169.—(1) An action abates on the death of a sole plaintiff or the survivor of several plaintiffs.

(2) The abatement of an action does not affect any liability for costs previously incurred.

(3) On the abatement of an action the prescribed form of notice of the abatement shall be given in the electoral district and any person who might have been a plaintiff may apply to a Judge of the Court in the prescribed manner and at the prescribed time and place to be substituted as the sole plaintiff.

170. Where a plaintiff is not qualified to be a plaintiff in an action under this Part, the action shall not on that account be dismissed if within such time as a Judge of the Court allows for that purpose, another plaintiff is substituted and substitution shall be made on such terms and conditions as to the Judge seems proper.

171.—(1) If, before or during the trial,

(*a*) the defendant dies; or

(*b*) the Assembly resolves that the seat is vacant; or

(*c*) the defendant gives notice to the Court in the prescribed form and at the prescribed time, that he does not intend to oppose, or further oppose the action,

notice of such event shall be given in the prescribed form in the electoral district.

(2) Within the prescribed time after notice is given, any person who might have been a plaintiff may apply to a judge of the Court to be admitted as a defendant to oppose the action, or so much thereof as remains undisposed of, and may be admitted accordingly, either with the defendant, if there be a defendant, or in place of the defendant, and any number of persons not exceeding three, may be so admitted.

(3) If any of the events mentioned in subsection 1 happen during the trial the Court shall adjourn the trial in order that notice may be given as hereinbefore provided.

(4) A defendant who has given the notice prescribed by ss. 1 (*c*) shall not be allowed to appear or act as a party against the action in any proceeding thereon and shall not sit or vote in the Assembly until the Assembly has been informed of the report on the action and the Court shall report the giving of the notice to the Legislative Assembly through the Clerk.

(5)—(*a*) The judge, at any stage of the proceedings, may,

(i) add the returning officer or any deputy returning officer or other persons as a party to the proceedings; and

(ii) allow any person entitled to be an elector to intervene and prosecute, or to defend, and may grant a reasonable time for that purpose.

(*b*) An intervening party is liable for or entitled to costs as any other party to the proceedings.

172.—(1) The Court shall determine whether the defendant was guilty of a corrupt practice and, where the defendant is the successful candidate, whether his election is void, and whether another person and, if so, what other person was duly elected.

(2) Subject to the provisions of Section 158 (1), the trial judge may declare that the election was void if it appears to him that the acts or omissions alleged to have taken place affected the result of the election.

(3) Subject to the provisions of Section 158 (1), where the declaration described in subsection 2 is made, the candidates at the election are not disqualified as candidates in the next election.

(4) Where the election complained of is adjudged to be invalid, the order shall provide that the person found not to have been duly elected be removed from the office and, if it is determined that any other person was duly elected, that he be admitted forthwith to the office. If it is determined that no other person was elected and a new election is ordered, the trial judge may make such order as he deems just, against any person, for the compensation of candidates at the void election, but not to exceed $10,000 per candidate.

(5) Where it is determined that no other person was duly elected, or that a person duly elected has become disqualified or has forfeited his seat, the order shall provide for the removal from office of such last-mentioned person and, for the holding of a new election.

(6)—(*a*) After the adjudication, an order shall be drawn up, stating concisely the ground and effect of the decision;

(*b*) The order may be at any time amended by the judge in any matter of form, and has the same force and effect as a writ of mandamus formerly had in the like case.

(7) The Registrar of the Court shall forward the judgment and the reasons for judgment to the Legislative Assembly through the Clerk.

(8) The trial judge shall, with his judgment, provide reasons in writing in which he shall report,

(*a*) whether any corrupt practice has been proved to have been committed by or with the actual knowledge and consent of any and of which candidate and the nature of the corrupt practice;

(*b*) the name of any person who has been proved to have been guilty of a corrupt practice;

(*c*) the name of any person who upon his own evidence has been found guilty of a corrupt practice;

(*d*) whether corrupt practices have, or whether there is reason to believe that corrupt practices have, extensively prevailed at the election and whether an inquiry as to whether corrupt practices have extensively prevailed is desirable.

(9) The Lieutenant Governor in Council, upon the recommendation of the Legislative Assembly, may issue a commission to inquire into whether corrupt practices extensively prevailed at the election and the Commissioner has all the powers that may be conferred on a Commissioner under *The Public Inquiries Act.*

173. The Court may also report specially as to any matter arising in the course of the trial, an account of which the trial Judge believes should be submitted to the Assembly.

174.—(1) If the Court determines that a member was not duly returned, notwithstanding that an appeal from the decision is pending, he is not entitled to sit or vote in the Assembly until the appeal is disposed of and the judgment of the Court received by the Assembly, but where the Court determines that some other person was elected or is entitled to the seat, such person is, notwithstanding that an appeal is pending, entitled to take his seat in the Assembly and to sit and vote until the appeal is disposed of and the judgment of the Court received by the Assembly.

(2) In the cases to which subsection 1 applies, where an appeal is entered the Registrar shall forthwith notify the Clerk of the Assembly that an appeal is pending from the decision of the Court.

175. A writ for a new election shall not be issued until after the expiration of the time limited to appeal from the determination of the Supreme Court that the election is

void and if an appeal is brought the writ shall not issue pending the appeal.

176.—(1) An appeal lies from the judgment of the Supreme Court to the Court of Appeal.

(2) The Registrar of the Court of Appeal shall set the appeal down for hearing at the next sittings, and the party appealing shall, within ten days, give to the parties affected by the appeal, or the solicitors by whom such parties were represented before the trial Judge, and to the Chief Election Officer, notice in writing that the case has been so set down, and the appeal shall be heard by the Court as speedily as practicable.

(3) The appeal shall thereupon be heard and determined by the Court and such judgment shall be pronounced as in the opinion of the Court should have been given by the trial Judge.

(4) The Court of Appeal may grant a new trial for the purposes of taking evidence or additional evidence and may remit the case to the trial Judge or to another trial Judge and subject to any directions of the Court of Appeal the case shall thereafter be proceeded with as if there had been no appeal.

(5) An appeal lies from the decision of the trial Judge to whom the case was remitted by the Court of Appeal, in accordance with the provisions of this section.

Schedule II

PROPOSED PART XI OF THE ELECTION ACT, 1968-69

REDISTRIBUTION COMMISSIONERS AND THEIR PROCEEDINGS

177. For the purpose of the redistribution of the province into electoral districts in accordance with this Act the Lieutenant Governor in Council shall appoint three Redistribution Commissioners, of whom one shall be the Chief Election Officer who shall be the Chairman.

178. At all meetings of the Redistribution Commissioners the Chairman, if present, shall preside, and in his absence the Redistribution Commissioners present shall appoint one of their number to preside, and at all such meetings two Commissioners shall be a quorum and shall have full power to act, and in the event of an equality of votes the Chairman or presiding Commissioner shall have a casting vote in addition to his original vote.

QUOTA

179. For the purpose of this Act, the Chief Election Officer shall determine the total population of the province as nearly as may be ascertained, and shall establish the average population of the electoral districts by dividing the number representing the total population by the number of the electoral districts into which the province is to be divided in accordance with the order of the Assembly made under section 188.

180.—(1) In making any proposed redistribution of the province into electoral districts the Redistribution Commissioners shall give due consideration to,

(*a*) Community or diversity of interests;

(*b*) Means of communication;

(*c*) Topographical features;

(*d*) Population trends;

(*e*) Existing boundaries of municipal governments or wards thereof;

(*f*) Boundaries of electoral districts established for the purpose of elections to the House of Commons of the Parliament of Canada,

and subject thereto the population quota for each electoral district shall be based on the average population but in determining such quota the Redistribution Commissioners shall not depart from the average population to a greater extent than one-quarter more or one-quarter less.

(2) The Redistribution Commissioners will notify the Assembly through the Clerk whenever, in their opinion, more than one-quarter of the electoral districts in the province vary more than one-quarter more or one-quarter less than the established average population for each electoral district, and in any event the Redistribution Commissioners shall notify the Assembly within six months following a general election the numbers of the population in each electoral district so far as can be ascertained at the date of the election.

181.—(1) The Redistribution Commissioners shall:

(*a*) before reporting on the redistribution of the Province into electoral districts prepare:

(i) a map with a description of the boundaries of each proposed electoral district; and

(ii) maps describing the boundaries of each proposed electoral district;

(*b*) invite public attention to the maps by publishing a notice in The Ontario Gazette.

(2) Maps describing the boundaries of a particular proposed electoral district shall be exhibited in public places in the appropriate proposed electoral district, and the Redistribution Commissioners may cause the appropriate maps to be printed in newspapers of general circulation in each proposed electoral district.

182. Objections or suggestions in writing may be lodged with the Redistribution Commissioners not later than thirty days after the first notice in The Ontario Gazette of the proposed redistribution, and the Redistribution Commissioners shall consider all objections and suggestions so lodged before making their report.

LAYING REPORT BEFORE ASSEMBLY

183. The Redistribution Commissioners shall forthwith, after the expiration of the thirty days above mentioned in section 182, forward to the Clerk of the Assembly their report upon the redistribution of the province into electoral districts, and the number of persons residing in each proposed district, as nearly as can be ascertained, together with maps signed by them showing the boundaries of each proposed electoral district.

184. The report and maps shall be laid before the Assembly within ten days after their receipt if the Assembly is then sitting, and, if not, then within the first ten days of the next session.

185. If within a period of thirty days from the day the report of the Redistribution Commissioners for the province is laid before the Assembly an objection in writing, in the form of a motion for consideration by the Assembly of the matter of the objection, signed by not less than ten Members of the Assembly, is filed with the Speaker specifying the provisions of the report objected to and the reasons for the objection, the Assembly shall, within the next fifteen sitting days take up the motion and consider the matter of the objection, and thereafter the report shall be referred back to the Redistribution Commissioners by the Speaker, together with a copy of the objection and of the Debates of the Assembly with respect thereto, for reconsideration by the Redistribution Commissioners having regard to the objection.

186. Within thirty days from the day the report of the Redistribution Commissioners is referred back to the Redistribution Commissioners by the Speaker pursuant to section 185, the Redistribution Commissioners shall consider the matter of the objection and shall dispose of the objection, and forthwith upon the disposition thereof a certified copy of the report of the Redistribution Commissioners, with or without amendment, shall be returned by the Redistribution Commissioners to the Speaker.

DRAFT REPRESENTATION ACT

187.—(1) Where it is ascertained by the Redistribution Commissioners that:

(*a*) No objection has been filed with the Speaker in the manner and within the time prescribed therefor in section 185; or

(*b*) the report referred to in section 186 has been returned to the Speaker,

the Redistribution Commissioners shall prepare a draft Representation Act in the form of a bill repealing *The Redistribution Act* then in force and embodying their report and this draft bill shall be presented to the Speaker forthwith and the Speaker shall transmit it to the Ministry for introduction into the Assembly.

(2) This bill shall be so drafted that when enacted it will come into force only on the dissolution of the Assembly.

WHEN REDISTRIBUTION ORDERED

188. A redistribution of the province into electoral districts shall be made whenever ordered by the Assembly and such order shall state the number of electoral districts into which the province is to be divided.

189. An order made for the redistribution of the province into electoral districts shall state the date by which the Redistribution Commissioners shall have their report ready to be laid before the Assembly, but such date shall not be prior to the statutory time for dissolution of the Assembly, unless such redistribution is ordered at the first session thereof.

Schedule III

PROXY VOTING

Section 1, *The Election Act, 1968-69.*

That paragraph 4 of clause *m* of Section 1 be repealed.

Section 35, *The Election Act, 1968-69.*

That clause *b* of subsection 1 of Section 35 be repealed, and the following substituted therefor:

(*b*) a person who expects to be absent from his polling subdivision during the election period including the advance poll and polling day by reason of,

(i) his being engaged for hire or reward in the business of transportation by railway, air, water or motor vehicle; or

(ii) his attendance as a *bona fide* student at a post secondary educational institution; or

That subsection 2 of section 35 be repealed and the following substituted therefor:

(2) Any person who is entitled to vote by proxy under this section may appoint in writing a proxy who shall be a qualified voter in the electoral district in which the voter is entitled to vote and who has not been appointed a proxy for any other qualified voter, unless such proxy is the child, grandchild, brother, sister, parent, grandparent, husband or wife of the voter.

DISSENTING OPINIONS

In pursuance of Standing Order 78 (*d*) of The Standing Orders of the Assembly, the Committee provides for the inclusion of dissenting opinions in this report:

By Messrs. Newman (Windsor-Walkerville), Singer (Downsview) and Smith (Nipissing):

To The Members of The Legislative Assembly of Ontario:

1. We, the three Liberal Members of this Committee believe that our dissenting opinion to the Third Report of the Select Committee on Election Laws must be presented not only to indicate our vehement dissent with several of the conclusions submitted on behalf of the Progressive Conservative Majority, but also to indicate our strongest possible disagreement and our deep felt condemnation of the methods resorted to by the Chairman and the Progressive Conservative Majority of the Committee in that they—

(*a*) Reversed, without prior consultation, previous decisions made by the Committee, reported upon, and enacted into legislation by the Government.

(*b*) Put forward in a draft Report so-called "Majority Opinions" which had not previously been discussed.

(*c*) Ignored (for obvious partisan political reasons) positive recommendations previously unanimously made by the Committee.

2. Re Recommendation No. 4 (1)

The Majority Report suggests that the voting age be lowered to 18 "provided that this recommendation is implemented concurrently with the enactments required to reduce the age of legal majority to 18". This recommendation is amplified in paragraphs 15 and 16 of the Majority Report. The arguments put forward, particularly in paragraph 16 of the Majority Report, as well as those advanced by the Progressive Conservative Association of Ontario, and by the Young Progressive Conservatives of Ontario, as well as many others, indicate the very strong opinion that the voting age in Ontario should in fact be lowered. Many other jurisdictions in Canada have already taken such action. The most recent speech from the Throne delivered in Ottawa indicated that such action would be taken by the Federal Government. The most recent speech from the Throne in Ontario indicated that the Ontario Government looks with favour on this suggestion.

While it is true that concern was expressed at earlier meetings of the Committee as to what might be the effect in the event that a person in Ontario might be allowed to be a candidate prior to his having reached the age of majority, and it was noted that the most recent recommendation of the Law Reform Commission of Ontario to the Attorney General

suggests that the age of majority be reduced to 18, at no time was it ever suggested at any meeting of the Committee prior to its meeting held on May 7th, 1970, that the lowering of the voting age be made conditional upon the reduction of the age of majority.

The Majority of the Committee did refuse to include any recommendation as to the lowering of the voting age in either its First or Second Reports, using as its excuse that the matter needed more research before being reported on.

The Committee has continuously carried on its work accepting the idea that the next Provincial election in Ontario would probably be in 1971 and that in the event that any changes were to be contemplated in the Election Laws which would affect that election, such changes would have to be made within a reasonable time prior to that election.

In view of the Majority's refusal to make any positive recommendations as to reduction in voting age in its Second Report and, more particularly, in view of the conditional recommendation it now makes, we must conclude that the Majority of the Committee has done everything in its power to forestall any possible change in the voting age which could be made effective in time for the anticipated 1971 election.

It is well known that recommendations of the Law Reform Commission receive careful and often long consideration from the Attorney General, from the Cabinet Council and from the Conservative Caucus. It is not unreasonable to conclude that if the Government of Ontario eventually decides that the age of majority should be reduced to 18 that this decision would not be one quickly arrived at, nor one that the people of Ontario could expect would be made in the immediate future.

We believe (1) that the voting age in Ontario should be reduced to 18, (2) that the age for candidates be retained at 21 until the age of majority is changed, and (3) that action be taken on this most important recommendation as quickly as possible.

We condemn the obvious ploy by the Majority to forestall this needed reform by means of patent trickery.

3. Re Recommendation 4 (3)

In its Second Report the Committee recommended that the privilege of vouching electors in all subdivisions, save those in unorganized territories, be done away with. This recommendation was accepted by the Government and subsequently enacted into legislation as one of the provisions of *The Election Act, 1968-69*. The Majority of the Committee now recommends, and without prior discussion, that this recommendation, the Government acceptance of it, and the Legislative enactment, all be reversed. It uses as its excuse, as set out in paragraph 23, "the Majority of the Committee is not now persuaded that this will ensure the compilation of an entirely satisfactory roll in rural areas".

Not only do we object to the unmitigated gall of the draughtsman of the Report when he purported to speak on behalf of the "Majority" knowing full well that the Committee had not again discussed this recommendation, but we can see no reason whatsoever for reversing what we believe was a most sensible recommendation of the Committee in its Second Report. We are encouraged in our advocacy of the validity of the original recommendation by reason of its acceptance by the Government and by reason of the fact that the Government saw fit to bring forward legislation making effective this recommendation, and by the fact that the Legislature unanimously approved of this legislation.

We, unfortunately, must conclude that the Majority of the Committee believes that rural voters (only some 25% of the population of Ontario) are more honest than urban voters. We are not prepared to accept this nor to concur in the perpetuation of such undemocratic procedures.

4. Re Recommendation 4 (4)

The Majority of the Committee recommends that *The Election Act, 1968-69*, be amended to provide that Deputy Returning Officers be entitled to appoint their Poll Clerks.

In its Second Report the Committee unanimously recommended that Deputy Returning Officers and Poll Clerks be appointed by the Returning Officer "so that they represent different political interests". That recommendation was accepted by the Government, and subsequently enacted into legislation, as one of the provisions of *The Election Act, 1968-69*. That Act was given unanimous approval by the Legislature.

Not only do we object to the reversal of the Committee's earlier decision, but we also must strongly condemn the undemocratic procedures used by the Chairman and the Majority of the Committee in putting forward this recommendation in the draft of the Third Report, without any prior consultation with *all* Members of the Committee.

It is well known that the present set up of administrative electoral procedures allows and encourages the appointment of Returning Officers not unfriendly to Government interests. It is important to note that in order to mitigate the opportunity for bias of any such person, the Committee recommended, and the Government and the Legislature accepted, a recommendation of the Committee in its Second Report for the appointment of permanent Returning Officers to replace the outdated system of temporary appointment of Returning Officers.

It is well known that Returning Officers rely on the recommendations of the Government candidate respecting the appointment of Deputy Returning Officers and Poll Clerks. Such a system places in the hands of Government candidates complete control of election machinery. The Committee, the Government and the Legislature all agreed that

the time had come to change these practices in Ontario and to take steps which would ensure, insofar as Legislative action could, that the conduct of the administrative machinery would contain sufficient safeguards to make it as fair as possible.

We must conclude that the Majority's sudden change of mind in this regard, without any prior consultation with *all* of the Members of the Committee, indicates a deep rooted fear that if the Government party is unable to control the election machinery, the Government party might, in fact, not do so well at the next election.

The so-called reason for this change in attitude by the Committee's Majority as set out in paragraph 24 to the effect that "the Deputy Returning Officer and his Poll Clerk should be persons who are mutually compatible" is so much hog wash.

We would point out that for many years in Ontario enumeration has been carried on in urban areas by two enumerators who represent differing political interests. Not only was there no evidence brought before the Committee to show that this system of enumeration was not working by reason of "lack of compatibility" or anything else, but the fact is that there was never any discussion until May 7th that the Committee's previous recommendation was in error. No Member of the Majority of the Committee did at any time address the Legislature to express his concern about the original recommendation.

We believe that the most important process of elections must be carried out as fairly and as equitably as possible. We believe that the recommendation that the Majority of the Committee is now attempting to reverse, is a very important part of the series of recommendations put forward by the Committee in its Second Report and enacted into legislation as part of *The Election Act, 1968-69*, that were designed to ensure such fairness and equity. Its reversal would result in a step backward, a clear indication of refusal to change and a denial of reform.

5. Re Recommendation 5

We cannot accept the recommendation of the Majority of the Committee set out in paragraph 5 to the effect that the Committee is not yet prepared to advance new proposals with respect to election finances. This statement is contrary to the instructions given by the Committee, at a meeting held in January 1970, when the Chairman was asked to bring forth suggestions for financial control of elections in line with the provisions most recently enacted by the Province of Nova Scotia. Notwithstanding the specific instructions of the Committee to the Chairman in this regard, the Chairman chose to ignore these instructions and the Majority of the Committee now expresses the opinion that the Committee is not yet prepared to advance new proposals with respect to election finances.

The Committee during the three years it has been sitting has made extensive enquiries into various systems of controlling election finances. It has looked at systems which apply in other jurisdictions. It has expressed the clear cut opinion that the present provisions of *The Ontario Election Act* provide absolutely no control whatsoever over the handling of election finances. It has been of the opinion that the present lack of control invites large campaign donations from persons, or organizations who have a particular axe to grind and who often exercise influence over government policy in direct relation to the amount of their campaign contributions.

It has been of the further opinion that because of the fact that there is no limit on election expenditures either by political parties or by individual candidates that our present election system is unfortunately slanted in favour of the wealthy candidates and well-heeled party organizations, to the detriment of those citizens of Ontario who cannot compete in the same financial league.

We believe that there were ample precedents available from other jurisdictions which the Committee examined, and particularly from the Province of Nova Scotia, which would have allowed us to make intelligent recommendations regarding this most important matter.

We deplore as strongly as we can, the failure of the majority of the Committee to make even a single recommendation in regard to this. We unfortunately must conclude that the Conservative Party does not believe it is in its interest to have any public control over, or public scrutiny of, the handling of election finances.

6. Re Recommendations 9 and 10

We cannot accept the Majority opinion in relation to its refusal to recommend that party affiliation be indicated on the ballots. The Committee was able to observe in many jurisdictions in Canada, and elsewhere, how a comparatively simple system to effect this reform could, in fact, be initiated.

The specious reasoning set out in the Majority Report in paragraph 10, particularly the reference to "forced dissolution" makes just no sense at all.

We must conclude that Members of the Conservative party are somewhat less than anxious to indicate their party allegiance to their voters on election day. While we can sympathize with them in their time of difficulty, we would suggest that since our whole political system in Ontario is based on the party system that provision be made to indicate to the voter on the ballot the party affiliation of every candidate.

7. Re Recommendations 12 and 13

Insofar as the recommendations in paragraphs 12 and 13 are concerned, we believe that the phrase "British Subject" included as one of the qualifying factors to determine the eligibility of voters can, and should

be eliminated from our Election Law. We believe that it is proper that the voter qualifications relate to Canadian Citizenship. We believe that in order to avoid any injustice that might be done by such change, to British Subjects who are not now Canadian Citizens but who have been resident in this Province for a period of time, that an appropriate amendment to our Election Laws could easily be drafted to avoid such unfairness. It could state that as of the date of dissolution of the 28th Legislature anyone otherwise qualified to vote in Ontario up to that date by reason of being a British Subject, would be deemed, and continue to be deemed to be a Canadian Citizen for election purposes.

We, as all other Members of the Legislature, take great pride in being citizens of Canada and we believe that a statute as important as our Election Act should reflect in unmistakable terms our pride in Canadian Citizenship.

A substantial point was made by two delegations, one speaking on behalf of the Portuguese community in Ontario, and the other speaking on behalf of the Italian community in Ontario. They both expressed the hope that some method could perhaps be worked out to allow members of these communities to have the privilege of voting in Ontario elections prior to the expiration of the five-year period which the *Canadian Citizenship Act* requires as a condition precedent to their obtaining citizenship. We are not satisfied that the sole recommendation in this regard from the Committee should be a suggestion to the Federal Government to change the Citizenship Law.

We believe that it is certainly not beyond the ingenuity of parliamentary draughtsmen to suitably phrase a provision to be included in the *Election Act* to the effect that non-citizen residents of Ontario who have for three years established their domicile (in the full legal sense of this word) in this Province be eligible to vote in Ontario elections.

8. Recommendation 54 and Section 180 of the Proposed Part XI of The Election Act, 1968-69

We cannot accept the Majority recommendation that Redistribution Commissioners "shall not depart from the average population to a greater extent than one-quarter more or one-quarter less". Such a large variation, if allowed, would permit constituencies to vary as much as two to one. We recognize that consideration must be given to the large distances encompassed by many rural constituencies and that in all cases it will not be possible to carry out the principle of "one man — one vote". We do, however, strongly believe that in allowing a variation as great as two to one, that the result might well be to make the value of one rural vote twice as much as one urban vote. Not only would such a result be as undemocratic an action as one can imagine but it would fly in the face of established residential patterns now existing in Ontario.

We cannot decry too vehemently the suggestion put forward by the Member for Kingston and the Islands and supported by five of his Progressive Conservative colleagues, to the effect that there be no

criteria at all established in our Election Laws concerning the comparative size of constituencies. We cannot subscribe to the principle that any minority in Ontario be given a privileged position by our Election Laws.

Recognizing, however, as mentioned above, that in a Province as large as Ontario, which contains some areas which are very sparsely settled, some deviation from the norm is perhaps one way to compensate for this problem, we recommend that the Redistribution Commissioners should not depart from the average population to a greater extent than 15% more or 15% less.

9. It is with substantial regret that we submit this Dissenting Report because we believe that many of the recommendations made by the Committee in its previous Reports and already enacted into legislation, and some of the recommendations made by the Committee in this Report will bring about necessary and important reform.

We do, however, state that as members of a democratic Legislature that we refuse to submit to undemocratic procedures. We refuse to accept the results of secret meetings which purport to put forward "the views of the Majority" when no discussions of the Committee have dealt with the points at issue.

We refuse to participate any longer in meetings of this Committee which are closed to the press. We believe that in view of the actions taken by this Committee on May 7th, that they have destroyed not only the opportunity for full and open discussion of recommendations affecting all the people of Ontario, but that they have also attempted to foist on this Legislature pre-judged and prejudiced views directed solely to the preservation of the Conservative Party.

We urge on the Government of Ontario that it direct its supporters in clear and unmistakable language that such actions will never again be tolerated. We are most gravely concerned that in the absence of such positive direction from Government that the whole parliamentary system of investigations by Select All Party Committees of the Legislature, will, in fact, be rendered useless.

By Messrs. Ferrier (Cochrane South) and Young (Yorkview):

To The Members of The Legislative Assembly of Ontario:

1. Voting Age

During the whole period of the Committee's review of election laws, it was taken for granted that the voting age would be lowered to either 18 or 19. After the matter had been discussed on several occasions a vote was taken. By a narrow margin it was determined that the Committee should recommend 19 as the new minimum voting age. Since that time some of the government members on the Committee have evidently indicated that they now favour 18. Unfortunately, a majority of the Committee insists that the actual timing of the legislation to reduce the voting age must coincide with a move to reduce the age of majority as well.

On May 11th, 1970, the following question was put to the Attorney General in the House:

> "Mr. F. Young (Yorkview): Mr. Speaker, I would like to ask a question of the Hon. Attorney General. Could the Attorney General inform the House when he plans to introduce legislation to reduce the age of legal majority to 18?"

The reply was:

> "Hon. Mr. Wishart: That, Mr. Speaker, is a matter of government policy for which I cannot speak as one member. I am not aware that it has been yet considered or determined by the government."

Since the Attorney General's department is responsible for such legislation, it is obvious that the government has no intention of moving on the age of majority in time for the next election.

We can only conclude, therefore, that the government majority on the Committee is attempting to have it both ways— seeming to favour 18 as the minimum voting age, but at the same time, making sure that the 18 to 21 year olds don't vote at the next provincial election.

We strongly object to this transparent device. The voting age can be lowered now by simply substituting the number 18 for that of 21 in Section 17 (1) (*a*) of *The Election Act.*

We therefore recommend that the House reject this incredible ploy and immediately enact legislation lowering the voting age to 18.

2. Enumerators

In its first report the Committee recommended that enumerators should be of voting age. This was incorporated into legislation. We agreed to this move only because of the unanimous feeling in the Committee that the voting age should and would be lowered. We were repeatedly assured that there would be no difficulty in lowering the voting age in plenty of time for the next election.

If, in fact, the House sees fit to adopt the Committee majority recommendation that the voting age be not lowered at this time then we recommend that Section 12 of *The Election Act* be amended so that in place of reading:

". . . two persons of voting age to be enumerators. . . ."

to read:

". . . two persons 18 years of age or over to be enumerators."

3. Student Voting

The 1969 amendment provided that a student of voting age may vote either in his home riding or in the one where he attends college.

The Committee majority now recommends that students must vote in their home ridings either in person or by proxy.

This in effect removes the student from active participation in the election process since, during the academic year, he cannot vote in the area where he resides and where the action is as far as he is concerned. Many students will resent having their parents vote for them and so will opt out of the process altogether.

More than this, it fragments the student vote. It makes it impossible for student attitudes in a post-secondary institution to be organized effectively around any one issue or any one candidate.

Students without the vote at 18, and without the right to vote in the riding where they reside during the college year, will be alienated still more.

We urge the House to refuse this recommendation and to retain the provisions of the 1969 amendment in respect to student voting.

4. Citizenship

We believe that the section referring to Canadian citizenship be strengthened by changing the sentence:

"It is hoped that the Parliament of Canada will give favourable consideration to shortening the number of years of residence required before a person can qualify for citizenship, say, from five years to three."

to the following:

"This Committee recommends that the Ontario Government make representations to the Government of Canada that the Parliament of Canada will give favourable consideration to shortening the number of years of residence required before a person can qualify for citizenship, say, from five years to three or less."

5. Vouching

After thorough discussion by the Committee it was recommended—and incorporated into legislation—that vouching on election day be abolished except in unorganized territories. This discussion is set forth on pages 102 to 106 of the transcript. The provincial election staff were extremely explicit in their recommendations after years of experience in this field. Every member of the Committee was in favour of eliminating vouching and setting up an enumeration system. There was not a single dissenting voice.

Now the government members on the Committee have reversed themselves and are recommending a return to the vouching system in rural polls. This, to us, is an unbelievable move before the new Act has even been used. No valid reason has been put forward for this reversal. We recommend that the Act remain as it was amended in 1969 in respect to vouching.

6. Appointment of Poll Clerks

The Election Act was also amended last year to provide that the Deputy Returning Officer and the Poll Clerk should represent two opposing political interests. The Committee recommended this and agreed that it brought a greater measure of fairness into the poll and prevented collusion of election officials in malpractice.

Now, the government majority on the Committee has again reversed itself and insists that the Poll Clerks as well as the Deputy Returning Officers be appointed by the ruling party. We repudiate this recommendation and urge that the law stand as it is.

These unfortunate reversals of the Committee majority as outlined above, if acted upon, will destroy much of the progressive and forward looking nature of the new election Act passed by the House less than a year ago. The Committee at that time was justly proud of its significant achievement in the field of election law. Now that achievement is being undercut by the government majority on the Committee reversing its former sound decisions and by its willingness, under pressure, to weaken

the Act before it can even come into use at a provincial election. For the House to adopt these suggested changes would be nothing less than disastrous as far as public confidence in the Select Committee on Election Laws is concerned, and it would demonstrate to Ontario that this Government has no real interest in significant and long delayed electoral reform.

We appeal, therefore, to the Legislature to maintain the significant and extremely important pioneering advances which characterize the amendments to *The Election Act* in 1969.